

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**UNITED STATES OF AMERICA *ex rel.*  
DEBRA A. MIZGALA,**

**Plaintiff,**

**v.**

**5:02-CV-292  
(FJS/GHL)**

**UPSTATE HOMECARE,**

**Defendant.**

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**APPEARANCES**

**OF COUNSEL**

**OFFICE OF JAMES T. RATNER**  
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Attorneys for Relator Debra Mizgala

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Attorneys for the United States  
of America

**DIANE J. CAGINO, AUSA**

**SCULLIN, Senior Judge**

**ORDER**

On April 13, 2010, Relator Debra Mizgala filed a Notice of Voluntary Dismissal of this *qui tam* action under the False Claims Act pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure and requested that the Court not unseal the complaint. In response, the United States filed a Notice of Consent to Dismissal and a letter objecting to her request that the Court not unseal her complaint. Rather, the United States asked that the Court unseal the complaint, but that all other parts of the file remain under seal except for its Notice of Consent to

Dismissal and this Order.

After reviewing the parties' submissions and the relevant law, the Court hereby

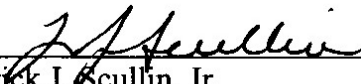
**ORDERS** that, in light of the well-established principle that the public has a right of access to court documents,<sup>1</sup> the complaint in this action is **UNSEALED**; and the Court further

**ORDERS** that this action is **DISMISSED WITHOUT PREJUDICE** to the United States and Relator Debra A. Mizgala; and the Court further

**ORDERS** that all other contents of this Court's file in this action shall remain **under seal and not be made public, except for the *United States' Notice of Consent to Dismissal*** and this *Order*.

**IT IS SO ORDERED.**

Dated: June 25, 2010  
Syracuse, New York

  
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Frederick J. Scullin, Jr.  
Senior United States District Court Judge

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<sup>1</sup> Although there is a paucity of case law directly on point, the Court finds that *U.S. ex rel. Permison v. Superlative Techs.*, 492 F. Supp. 2d 561 (E.D. Va. 2007), is factually very similar and concludes that the court's analysis of and reasons for denying a similar request in that case are persuasive.